

Department of Veterans Affairs

§ 13.71

exceed 4 percent of the monetary benefits paid by VA on behalf of the beneficiary to the fiduciary during that year; a year being the normal 12 month period following the anniversary date of appointment. The Veterans Service Center Manager shall furnish appropriate notice to the beneficiary, either directly or through the fiduciary, that a commission is payable.

(c) *Persons who may be excluded.* Commissions may not be authorized to dependents of the beneficiary or other close relatives acting in a fiduciary capacity on behalf of the beneficiary, except under extraordinary circumstances.

(Authority: 38 U.S.C. 5502; Pub. L. 98-223)

[51 FR 26157, July 21, 1986]

§ 13.69 Limitation of beneficiaries to individual fiduciary.

For purposes of payment of Department of Veterans Affairs benefits, the number of beneficiaries for whom an individual fiduciary may act will be limited to the number the fiduciary may be reasonably expected to properly serve. When, in the judgment of the Veterans Service Center Manager, a fiduciary has been appointed or is seeking appointment in a case in excess of that number, the Veterans Service Center Manager will initiate action to obtain a suitable substitute fiduciary.

[40 FR 54248, Nov. 21, 1975]

§ 13.70 Apportionment of benefits to dependents.

(a) *Incompetent veterans being furnished hospital treatment, institutional or domiciliary care by United States or political subdivision thereof.* When compensation, pension or emergency officers' retirement pay is payable in behalf of a veteran who is incompetent or under other legal disability by court action, the Veterans Service Center Manager may recommend such apportionment to or in behalf of the veteran's spouse, child or dependent parent as may be necessary to provide for their needs.

(b) *Dependent parents.* When the compensation of a veteran paid to his or her fiduciary includes an additional amount for a dependent parent or parents and the fiduciary neglects or re-

fuses to make an equivalent contribution for their support, the Veterans Service Center Manager may recommend the apportionment to the parent or parents of the additional amount.

(c) *Payments withheld because of fiduciary's failure to properly administer veteran's estate.* When payments of compensation, pension or emergency officers' retirement pay in behalf of a veteran have been stopped because of the fiduciary's failure or inability to properly account or otherwise administer the estate, the Veterans Service Center Manager may recommend the apportionment to the veteran's spouse, child or dependent parent of any benefit not paid under an institutional award or to a custodian-in-fact.

(Authority: 38 U.S.C. 501, 512, 5502, 5503)

[40 FR 54248, Nov. 21, 1975, as amended at 51 FR 26158, July 21, 1986; 66 FR 48561, Sept. 21, 2001; 68 FR 34543, June 10, 2003]

§ 13.71 Payment of cost of veteran's maintenance in institution.

(a) The payment of part of compensation, pension or emergency officers' retirement pay for the cost of a veteran's hospital treatment, institutional or domiciliary care in an institution operated by a political subdivision of the United States may be authorized as provided in paragraph (b) of this section when:

(1) The veteran is rated incompetent by the Department of Veterans Affairs.

(2) It has been determined the veteran is legally liable for the cost of his or her maintenance, and

(3) The institution's representative has asserted or probably will assert a claim for full maintenance costs.

(b) Subject to these conditions and the further condition that the responsible official of the institution or political subdivision will agree not to assert against Department of Veterans Affairs benefits any further claim for maintenance during the veteran's lifetime, the Veterans Service Center Manager may agree with such official to the payment of the veteran's benefits through an institutional award to be applied to:

(1) A monthly amount determined by the Veterans Service Center Manager